

Applic. No. 10/683,729
Amdt. dated September 29, 2006
Reply to Office action of July 3, 2006

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Remarks/Arguments:

Reconsideration of the application is requested.

Claims 1-4, 6-15, and 17-23 remain in the application. Claims 1, 6, 9, 13, 17, and 23 have been amended. Claims 5 and 16 are being cancelled herewith.

In item 3 on page 2 of the above-identified Office action, claim 9 has been objected to because of the following informalities.

The Examiner stated that "the object" recited in claim 9 is not mentioned in claim 1, from which claim 9 depends. Claim 9 has been amended to further clarify the claim and now depends from claim 8. Therefore, the objection to claim 9 by the Examiner is believed to have been overcome.

Should the Examiner find any further objectionable items, counsel would appreciate a telephone call during which the matter may be resolved. The above-noted changes to the claims are provided solely for cosmetic or clarificatory reasons. The changes are not provided for overcoming the prior art nor

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for any reason related to the statutory requirements for a patent.

In item 5 on page 3 of the Office action, claims 1, 2, 4-7, 11-18, and 21-23 have been rejected as being obvious over Kupferer et al. (GB 2,022,872 A) (hereinafter "Kupferer") in view of Jacobson et al. (U.S. Patent No. 6,445,489 B1) (hereinafter "Jacobson") under 35 U.S.C. § 103.

The rejection has been noted and the claims have been amended in an effort to even more clearly define the invention of the instant application. The claims are patentable for the reasons set forth below. Support for the changes is found in claim 5 and in Fig. 1 of the instant application.

Moreover, MPEP 2163.07 states that when an application was originally filed in a foreign language, a translation error can be corrected. The use of the word "interrupts" in claim 5 is not the best translation of the German word "durchbrochen" in this context. A more suitable translation for the German word "durchbrochen" is "projecting through". Accordingly, in claims 1, 13, and 23 the term "interrupts" has been replaced with "projecting through". Therefore, no new matter has been added.

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Before discussing the prior art in detail, it is believed that a brief review of the invention as claimed, would be helpful.

Claims 1, 13, and 23 call for, *inter alia*:

an operating element projecting through the electronic paper.

The Kupferer reference discloses a program selection apparatus for an electrical domestic apparatus, which includes an LED or LCD display (3) underlying a panel (4) of touch sensitive switches. Kupferer discloses that a slide (13) is disposed underneath a detachable cover (14) on top of the display (3) and the panel (4).

The Jacobson reference discloses an electrophoretic display. Jacobson does not disclose that an operating element projects through the electrophoretic display.

It is noted that the Examiner indicated that Kupferer as modified by Jacobson discloses that the slide (13) "interrupts" the electronic paper. However, as noted above, "interrupts" was not a suitable translation. Kupferer as modified by Jacobson does not disclose that the slide (13) projects through the electronic paper.

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It is a requirement for a *prima facie* case of obviousness, that the prior art references must teach or suggest all the claim limitations.

The references do not show or suggest an operating element projecting through the electronic paper, as recited in claims 1, 13, and 23 of the instant application.

The Kupferer reference discloses a slide that is disposed above the display. Kupferer does not disclose that the slide projects through the display. This is contrary to the invention of the instant application as claimed, in which an operating element projects through the electronic paper.

The Jacobson reference discloses an electrophoretic display. Jacobson does not disclose that an operating element projects through the electrophoretic display. This is contrary to the invention of the instant application as claimed, in which an operating element projects through the electronic paper.

The references applied by the Examiner do not teach or suggest all the claim limitations. Therefore, it is believed that the Examiner has not produced a *prima facie* case of obviousness.

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Since claims 1 and 13 are believed to be allowable, dependent claims 2, 4-7, 11, 12, 14-18, and 21-22 are believed to be allowable as well.

In item 6 on page 6 of the Office action, claims 3, 8, 9, 10, and 19-20 have been rejected as being obvious over Kupferer (GB 2,022,872 A) in view of Jacobson (U.S. Patent No. 6,445,489 B1) and further in view of Aisa (U.S. Patent No. 6,873,876 B1) under 35 U.S.C. § 103. Aisa does not make up for the deficiencies of Kupferer and Jacobson. Since claims 1 and 13 are believed to be allowable, dependent claims 3, 8, 9, 10, and 19-20 are believed to be allowable as well.

It is accordingly believed to be clear that none of the references, whether taken alone or in any combination, either show or suggest the features of claims 1, 13, or 23. Claims 1, 13, and 23 are, therefore, believed to be patentable over the art and since all of the dependent claims are ultimately dependent on claims 1 or 13, they are believed to be patentable as well.

In view of the foregoing, reconsideration and allowance of claims 1-4, 6-15, and 17-23 are solicited.

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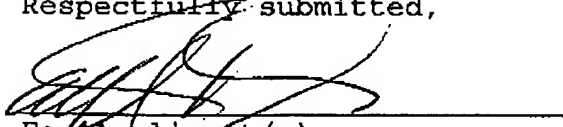
In the event the Examiner should still find any of the claims to be unpatentable, counsel respectfully requests a telephone call so that, if possible, patentable language can be worked out.

If an extension of time for this paper is required, petition for extension is herewith made.

Please charge any other fees which might be due with respect to Sections 1.16 and 1.17 to the Deposit Account of Lerner Greenberg Stemer LLP, No. 12-1099.

Respectfully Submitted,

Alfred K. Dassler
52,794


For Applicant(s)

AKD:cgm

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Lerner Greenberg Stemer LLP
Post Office Box 2480
Hollywood, FL 33022-2480
Tel: (954) 925-1100
Fax: (954) 925-1101